

D/F

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
KAWAND COFIELD,

Plaintiff,

-against-

ARMOR CORRECTIONAL HEALTH, INC.,

Defendant.
-----X

KAWAND COFIELD,

Plaintiff,

-against-

ARMOR CORRECTIONAL HEALTH and
MICHAEL SPOSATO,

Defendants.
-----X

FEUERSTEIN, District Judge:

ORDER

12-CV-1394 (SJF)(ETB)

FILED

IN CLERK'S OFFICE
U S DISTRICT COURT E D N Y

★ AUG 21 2012 ★

LONG ISLAND OFFICE

12-CV-3708 (SJF)(ETB)

On March 14, 2012, incarcerated pro se plaintiff Kawand Cofield ("plaintiff") filed a complaint pursuant to 42 U.S.C. § 1983 ("Section 1983") against Armor Correctional Health, Inc. alleging that, since October 2011, he has "been bleeding internally each time [he] move[s] his] bowels" and that he has been receiving inadequate medical treatment. See Case No. 12-1394, Docket Entry No. 1 at ¶¶ IV, V. By order dated April 11, 2012, the Court granted plaintiff's application to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a)(1), but sua sponte dismissed the complaint pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A(b). Plaintiff was granted leave to file an amended complaint within thirty (30) days from the date that the order was served upon him. Plaintiff was also warned that his failure to file an amended complaint in a

timely manner would lead to the dismissal of his complaint with prejudice.

On April 14, 2012, plaintiff filed a letter that the Court interpreted as a request for an extension of time to file the amended complaint. See Case No. 12-1394, Docket Entry No. 7. The Court extended plaintiff's deadline to June 18, 2012, marking it as the "final extension." Id. Rather than timely file an amended complaint, on July 23, 2012, plaintiff filed a new in forma pauperis complaint against Armor Correctional Health and Michael Sposato (together, the "defendants"). Case No. 12-3708 (SJF)(ETB). Apart from the addition of Michael Sposato as a defendant, this complaint is almost identical to his original complaint.

However, on August 8, 2012, plaintiff filed an amended complaint under the second case number. Case No. 12-3708, Docket Entry No. 7. The amended complaint alleges that plaintiff, a pre-trial detainee, has been denied adequate medical care for his alleged "stomach issues" including "severe bleeding each and every time plaintiff moves his bowels," "irregular bowel movements," "severe stomach pains, weight loss and hemeroids [sic]." Amended Complaint at ¶ 5. According to the amended complaint, plaintiff has submitted several sick call slips and, after seventy-two (72) days with no response, was advised that there is a notation on his "G.I. request form" that "inmate refuses" medical attention. Id. Plaintiff claims that he has never refused medical treatment. Id.

Given plaintiff's pro se status, the Court will not dismiss the first action for failure to timely amend, but will consolidate the two (2) cases under plaintiff's first-filed action, 12-CV-1394 (SJF)(ETB). The second case, 12-3708 (SJF)(ETB), shall be closed, and all future filings shall bear only docket number 12-1394 (SJF)(ETB). Plaintiff is warned that future failure to comply with Court orders may lead to sanctions, including the dismissal of his complaint.

Though the allegations are thin, the court declines to sua sponte dismiss the amended complaint (*i.e.*, that filed on August 8, 2012) at this early stage. Accordingly, the Clerk of Court shall forward to the United States Marshals Service for the Eastern District of New York copies of plaintiff's summons, the amended complaint, and this order for service upon the defendants without prepayment of fees.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore in forma pauperis status is denied for the purpose of any appeal. See Coppedge v. United States, 369 U.S. 438, 444-45, 82 S. Ct. 917, 8 L. Ed. 2d 21 (1962).

IT IS SO ORDERED.

s/ Sandra J. Feuerstein

Sandra J. Feuerstein
United States District Judge

Dated: August 21, 2012
Central Islip, New York